

The South Carolina Court of Appeals

Andrey Gergel and Sonja M. Wyatt, Respondents,

v.

Alexander Opoulous, III, Tina B. Opoulous, Sebrina
Leigh Jones, and Luxury Land and Homes, Inc.,
Defendants,

Of whom Tina B. Opoulous is the Appellant.

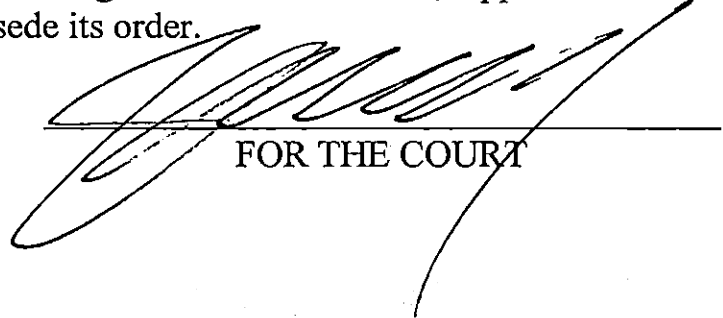
Appellate Case No. 2023-001762

ORDER

Appellant has filed a petition for supersedeas, asking this court to stay execution of the money judgment on appeal. Rule 241(d), SCACR, requires that "[e]xcept where extraordinary circumstances make it impracticable, an application for an order . . . for supersedeas must first be made to the lower court." Rule 241(d) further states that "an unnecessary delay by the lower court . . . in ruling on this application shall constitute an extraordinary circumstance."

In her reply to Respondents' return, Appellant states that she filed a Rule 62, SCRCP, motion to stay execution of the judgment that has remained pending before the trial court "for one year and eight months," and such a delay constitutes "extraordinary circumstances" for purposes of Rule 241(d), SCACR. However, the referenced motion, filed June 8, 2022, specifically requests a stay of execution of the judgment only "until such time as [the trial court] issues its ruling [on Appellant's] Rule 60(b) [m]otion." The trial court subsequently, on October 18, 2023, issued an order not only denying Appellant's Rule 60(b), SCRCP, but explicitly stating, "The Motion for Stay is also DENIED." In fact, Appellant states in her notice of appeal that she appeals the trial court's "Order Denying [Appellant's] Motion for Stay of Execution of Judgment."

Because Appellant's motion to stay to the trial court was limited to such time when the court ruled on her motion for relief from judgment, and no unnecessary delay or other extraordinary circumstance is present here, Appellant's petition for supersedeas is denied. Before seeking relief from this court, Appellant must first petition the trial court to supersede its order.



FOR THE COURT

Columbia, South Carolina

cc:
Stephan Victor Futeral, Esquire
George Hamlin O'Kelley, III, Esquire

FILED
Feb 16 2024